

AMENDED IN SENATE AUGUST 6, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2075**

---

**Introduced by Assembly Member Fong**

February 23, 2012

---

An act to ~~repeal Section 25502.3 of the Public Resources~~ amend Section 2827.10 of the Public Utilities Code, relating to energy, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2075, as amended, Fong. ~~Energy: powerplant certification. Net energy metering: fuel cell electrical generating facilities.~~

Existing law establishes a net energy metering program that is available to an eligible fuel cell customer-generator, as defined. The existing definition of an eligible fuel cell customer-generator requires that the customer use a fuel cell electrical generating facility with a capacity of not more than one megawatt that is located on or adjacent to the customer's owned, leased, or rented premises, is interconnected to, and operates in parallel with, the electrical grid while the grid is operational or in a grid independent mode when the grid is nonoperational, and is sized to offset part or all of the eligible fuel cell customer-generator's own electrical requirements.

This bill would revise the definition of an eligible fuel cell customer-generator to increase the permissible generating capacity of the fuel cell electrical generating facility to not more than 3 megawatts.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law vests the State Energy Resources Conservation and Development Commission with the exclusive jurisdiction to certify an electric generating facility. Existing law defines a facility to mean an electric transmission line or thermal powerplant with a generating capacity of 50 megawatts or greater. Existing law authorizes a person proposing to construct a facility excluded from the commission's jurisdiction to waive the exclusion by submitting to the commission a notice of intent to file an application for certification.~~

~~This bill would repeal that authorization.~~

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 2827.10 of the Public Utilities Code is*  
2     *amended to read:*

3     2827.10. (a) As used in this section, the following terms have  
4     the following meanings:

5     (1) "Electrical corporation" means an electrical corporation, as  
6     defined in Section 218.

7     (2) "Eligible fuel cell electrical generating facility" means a  
8     facility that includes the following:

9     (A) Integrated powerplant systems containing a stack, tubular  
10    array, or other functionally similar configuration used to  
11    electrochemically convert fuel to electric energy.

12    (B) An inverter and fuel processing system where necessary.

13    (C) Other plant equipment, including heat recovery equipment,  
14    necessary to support the plant's operation or its energy conversion.

15    (3) "Eligible fuel cell customer-generator" means a customer  
16    of an electrical corporation that meets all the following criteria:

17    (A) Uses a fuel cell electrical generating facility with a capacity  
18    of not more than ~~one megawatt~~ *three megawatts* that is located on  
19    or adjacent to the customer's owned, leased, or rented premises,  
20    is interconnected and operates in parallel with the ~~electric~~ *electrical*  
21    grid while the grid is operational or in a grid independent mode  
22    when the grid is nonoperational, and is sized to offset part or all  
23    of the eligible fuel cell customer-generator's own electrical  
24    requirements.

1 (B) Is the recipient of local, state, or federal funds, or who  
2 self-finances projects designed to encourage the development of  
3 eligible fuel cell electrical generating facilities.

4 (C) Uses technology the commission has determined will  
5 achieve reductions in emissions of greenhouse gases pursuant to  
6 subdivision (b), and meets the emission requirements for eligibility  
7 for funding set forth in subdivision (c), of Section 379.6.

8 (4) "Net energy metering" means measuring the difference  
9 between the electricity supplied through the electrical grid and the  
10 difference between the electricity generated by an eligible fuel cell  
11 electrical generating facility and fed back to the ~~electric~~ *electrical*  
12 grid over a 12-month period as described in subdivision (e). Net  
13 energy metering shall be accomplished using a time-of-use meter  
14 capable of registering the flow of electricity in two directions. If  
15 the existing electrical meter of an eligible fuel cell  
16 customer-generator is not capable of measuring the flow of  
17 electricity in two directions, the eligible fuel cell  
18 customer-generator shall be responsible for all expenses involved  
19 in purchasing and installing a meter that is able to measure  
20 electricity flow in two directions. If an additional meter or meters  
21 are installed, the net energy metering calculation shall yield a result  
22 identical to that of a time-of-use meter.

23 (b) Every electrical corporation shall, not later than March 1,  
24 2004, file with the commission a standard tariff providing for net  
25 energy metering for eligible fuel cell customer-generators,  
26 consistent with this section. Every electrical corporation shall make  
27 this tariff available to eligible fuel cell customer-generators upon  
28 request, on a first-come-first-served basis, until the total cumulative  
29 rated generating capacity used by the eligible fuel cell  
30 customer-generators equals 45 megawatts within the service  
31 territory of the electrical corporation for an electrical corporation  
32 with a peak demand above 10,000 megawatts, or equals 22.5  
33 megawatts within the service territory of the electrical corporation  
34 for an electrical corporation with a peak demand of 10,000  
35 megawatts or below. The combined statewide cumulative rated  
36 generating capacity used by the eligible fuel cell  
37 customer-generators in the service territories of all electrical  
38 corporations in the state may not exceed 112.5 megawatts.

39 (c) In determining the eligibility for the cumulative rated  
40 generating capacity within an electrical service area, preference

1 shall be given to facilities which, at the time of installation, are  
2 located in a community with significant exposure to air  
3 contaminants or localized air contaminants, or both, including, but  
4 not limited to, communities of minority populations or low-income  
5 populations, or both, based on the ambient air quality standards  
6 established pursuant to Section 39607 of the Health and Safety  
7 Code.

8 (d) Each net energy metering contract or tariff shall be identical,  
9 with respect to rate structure, all retail rate components, and any  
10 monthly charges, to the contract or tariff to which the customer  
11 would be assigned if the customer was not an eligible fuel cell  
12 customer-generator. Any new or additional demand charge, standby  
13 charge, customer charge, minimum monthly charge,  
14 interconnection charge, or other charge that would increase an  
15 eligible fuel cell customer-generator's costs beyond those of other  
16 customers in the rate class to which the eligible fuel cell  
17 customer-generator would otherwise be assigned are contrary to  
18 the intent of the Legislature in enacting the act adding this section,  
19 and may not form a part of net energy metering tariffs.

20 (e) The net metering calculation shall be made by measuring  
21 the difference between the electricity supplied to the eligible  
22 customer-generator and the electricity generated by the eligible  
23 customer-generator and fed back to the ~~electric~~ *electrical* grid over  
24 a 12-month period. The following rules shall apply to the  
25 annualized metering calculation:

26 (1) The eligible fuel cell customer-generator shall, at the end  
27 of each 12-month period following the date of final interconnection  
28 of the eligible fuel cell electrical generating facility with an  
29 electrical corporation, and at each anniversary date thereafter, be  
30 billed for electricity used during that period. The electrical  
31 corporation shall determine if the eligible fuel cell  
32 customer-generator was a net consumer or a net producer of  
33 electricity during that period. For purposes of determining if the  
34 eligible fuel cell customer-generator was a net consumer or a net  
35 producer of electricity during that period, the electrical corporation  
36 shall aggregate the electrical load of the eligible fuel cell  
37 customer-generator under the same ownership. Each aggregated  
38 account shall be billed and measured according to a time-of-use  
39 rate schedule.

(2) At the end of each 12-month period, where the electricity supplied during the period by the electrical corporation exceeds the electricity generated by the eligible fuel cell customer-generator during that same period, the eligible fuel cell customer-generator is a net electricity consumer and the electrical corporation shall be owed compensation for the eligible fuel cell customer-generator's net kilowatthour consumption over that same period. The compensation owed for the eligible fuel cell customer-generator's consumption shall be calculated as follows:

(A) The generation charges for any net monthly consumption of electricity shall be calculated according to the terms of the tariff to which the same customer would be assigned to or be eligible for if the customer was not an eligible fuel cell customer-generator. When the eligible fuel cell customer-generator is a net generator during any discrete time-of-use period, the net kilowatthours produced shall be valued at the same price per kilowatthour as the electrical corporation would charge for retail kilowatthour sales for generation, exclusive of any surcharges, during that same time-of-use period. If the eligible fuel cell customer-generator's time-of-use electrical meter is unable to measure the flow of electricity in two directions, paragraph (4) of subdivision (a) shall apply. All other charges, other than generation charges, shall be calculated in accordance with the eligible fuel cell customer-generator's applicable tariff and based on the total kilowatthours delivered by the electrical corporation to the eligible fuel cell customer-generator. To the extent that charges for transmission and distribution services are recovered through demand charges in any particular month, no standby reservation charges shall apply in that monthly billing cycle.

(B) The net balance of moneys owed shall be paid in accordance with the electrical corporation's normal billing cycle.

(3) At the end of each 12-month period, where the electricity generated by the eligible fuel cell customer-generator during the 12-month period exceeds the electricity supplied by the electrical corporation during that same period, the eligible fuel cell customer-generator is a net electricity producer and the electrical corporation shall retain any excess kilowatthours generated during the prior 12-month period. The eligible fuel cell customer-generator shall not be owed any compensation for those excess kilowatthours.

1 (4) If an eligible fuel cell customer-generator terminates service  
2 with the electrical corporation, the electrical corporation shall  
3 reconcile the eligible fuel cell customer-generator's consumption  
4 and production of electricity during any 12-month period.

5 (f) A fuel cell electrical generating facility shall not be eligible  
6 for participation in the tariff established pursuant to this section  
7 unless it commenced operation before January 1, 2014. A fuel cell  
8 customer-generator shall be eligible for the tariff established  
9 pursuant to this section only for the operating life of the eligible  
10 fuel cell electrical generating facility.

11 *SEC. 2. This act is an urgency statute necessary for the*  
12 *immediate preservation of the public peace, health, or safety within*  
13 *the meaning of Article IV of the Constitution and shall go into*  
14 *immediate effect. The facts constituting the necessity are:*

15 *In order to avoid delays and uncertainty in the introduction of*  
16 *advanced ultraclean and low-emission distributed generation*  
17 *technologies by removing barriers to ensure that all fuel cell*  
18 *technologies have a fair and equal opportunity to participate and*  
19 *take advantage of net energy metering, it is necessary that this act*  
20 *take effect immediately.*

21 ~~SECTION 1. Section 25502.3 of the Public Resources Code~~  
22 ~~is repealed.~~